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Instruction Memorandum No. WY-2007-24
Expires: 9/30/2008

To: Field Managers, Deputy State Director, Minerals and Lands
From: Acting State Director
Subject: Beneficial Use Policy – Fuel Gas Use for Water Production Tanks

Objective

The objective of this Instruction Memorandum (IM) is to clarify Wyoming policy regarding gas used to fuel burners in order to heat water production lines, valves, and tanks, specifically as it relates to: (1) claims for beneficial use; and (2) reporting of production.

Background/Issue

Recently conducted field inspections of several producing Federal oil and gas leases have found numerous instances of gas burners being utilized in water production tanks. Gas burners used in water tanks are primarily used to heat the water to help keep water and valves from freezing in cold temperatures, and also for evaporating produced water.

Field inspections have found fuel gas used for the heating of water lines, valves, and tanks on lease (or communitized tract, or unitized participating area) is often not being metered or reported on oil and gas operation production reports (OGORs) when submitted to the Minerals Management Service (MMS). Some operators may believe that the heating of water lines, valves, and tanks meets the NTL-4A definition of beneficial purposes.

Section 16 of the Mineral Leasing Act, (30 U.S.C. 225) as amended, states in part: “That all permits and leases of lands ... containing gas, shall be subject ... to the further condition that the permittee or lessee will, in conducting his explorations and mining operations, use all reasonable precautions to prevent waste of oil or gas developed in the land” Also, 43 CFR 3162.7-1(d) provides the operator shall conduct operations in such a manner as to prevent avoidable loss of oil and gas. The operator shall be liable for royalty payments on oil or gas lost or wasted from a lease site, or allocated to a lease site, when such loss or waste is due to negligence on the part of the operator of such lease, or due to the failure of the operator to comply with any regulations, order, or citation issued pursuant to this part. 43 CFR 3160.0-5 defines waste of oil or gas as any act or failure to act by the operator that is not sanctioned by the authorized officer as necessary for proper development and production and which results in:

(1) a reduction in the quantity or quality of oil and gas ultimately producible from a reservoir under prudent and proper operations; or (2) avoidable surface loss of oil or gas. Section 4 of the standard oil and gas lease terms states that the lessee shall exercise reasonable diligence in developing and producing, and shall prevent unnecessary damage to, loss of, or waste of leased resources.

Policy

BLM's responsibilities are to ensure that (1) reported monthly production volumes of oil, gas, and water accurately reflect the actual volumes produced and sold or removed during the month on a lease, communitized tract, or unit participating area basis, whichever is appropriate; (2) the procedures used to measure production are performed in accordance with established standards; and (3) operations conform to lease and regulation standards necessary to prevent waste.

Upon review of existing BLM guidance, we conclude that fuel gas used for the heating of water lines, valves, and tanks does not meet the definition of beneficial purposes (NTL-4A). The heating of water to prevent freeze up or to evaporate water from water production tanks is viewed as an operational convenience and not necessary for placing the produced products in a marketable condition. The use of fuel gas for heating lines, valves, and tanks without proper payment of royalty is a waste of gas and is in violation of the standard lease terms and regulations. The disposal of produced water can be handled by other means including re-injection, trucked off site for disposal, or discharged on the surface subject to applicable permitting requirements. Water production lines, valves, and tanks can be insulated and/or heat traced to help prevent freezing in cold winter conditions.

If the operator concludes gas burners are the only method possible for use in water production lines, valves, and tanks to ensure continued operations in cold winter conditions (gas burners are usually not necessary or have limited use for the non-winter months), then they should seek approval for this use from the Authorized Officer (AO) by submitting a request on a Sundry Notice, Form 3160-5. At minimum, the following will be required to be specified in the request in order to approve the action: (1) fuel gas used must be metered pursuant to Onshore Order No. 5; (2) gas burner fuel volumes will be reported on the OGOR; (3) the operator agrees to pay royalty on all gas used to fuel the gas burners; and (4) if appropriate, obtain approval from the AO to dispose water by means of evaporation. The AO can establish conditions of approval to satisfy requirements to ensure safety of Federal employees and the public at large.

The State Office is further investigating the use of gas burners on both water and condensate tanks. Once our analysis is complete, we will provide you with additional guidance on the continued use of gas burners. In the meantime, please follow the guidance outlined in this Instruction Memorandum.

Time Frame

This policy should be implemented immediately.

Coordination

Coordination between the State Office, the AO, and appropriate staff will be necessary to ensure that everyone is aware of these requirements and implementation of this policy.

Budget Implications

While this policy will require additional time, effort, and administrative support to implement, the policy requires no significant budget implications.

If you have any questions, please contact Alan Rabinoff 307-775-6148 or Michael Madrid 307-775-6201.

/s/ Alan Rabinoff